

ADMINISTRATIVE DIRECTIVE 1.61

PURCHASING PROTEST PROCEDURES

Effective Date: May 12, 2008

GENERAL GUIDELINES

I. PURPOSE

The purpose of this directive is to establish uniform protest procedures for Bidders wishing to contest staff's recommendations for award of contracts that result from Formal Solicitations issued by the Purchasing and Contract Services Department (the "Department").

II. POLICY

Employees of the City of San Antonio shall conduct all procurement activity governed by this directive in compliance with federal, state, and local law as well as the rules and guidelines set forth by the Purchasing and Contract Services Department. Further, City procurements will be conducted in a manner that safeguards taxpayer funds, promotes business effectiveness and efficiency, and advances opportunity for women, minority, and small businesses to participate in City contracting processes. This directive is designed to promote this policy by providing an opportunity, prior to contract award, for Bidders to demonstrate why they believe they should be awarded a contract, when staff intends to recommend award to another party.

III. DEFINITIONS

- A. **Bid** - a complete, signed response to a Formal Solicitation. The term "Bid" is synonymous with the terms "Offer", "Response" and "Proposal".
- B. **Bidder** - a person, firm or entity that submits a Bid in response to a formal solicitation. The term "Respondent" is synonymous with the term "Bidder".
- C. **Bid Protest** - mechanism by which a Bidder may contest the procedure or recommended outcome of a contract award.
- D. **Formal Solicitation** - a request for offers to provide goods or services, which has been advertised for bid in a newspaper and/or on the Internet. The term is synonymous with the term "Invitation for Bid" and "Request for Proposals".
- E. **Recommended award** - to suggest something as worthy of being accepted, after careful consideration, of a purchase agreement contract to the selected bidder or offeror.

IV. RESPONSIBILITIES

The Director of the Purchasing & Contract Services Department (the "Director"), or the Director's designee, is responsible for implementing the bid protest procedures contained herein,

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and overseeing their administration. The Director shall take reasonable steps to notify Bidders about the availability of the bid protest procedure.

A. Bid Protest Procedure

The Director has the authority to settle or resolve any claim of an alleged protest of a recommended award. This includes but is not limited to protests of award or non-selection for award or other matters of a contractual or procurement nature. The procedures for notifying the City of San Antonio of filing an alleged protest are listed below. If vendor fails to comply with any of these requirements, the protest may be dismissed.

- 1) Vendor must deliver a written notice of protest to the Purchasing Director within seven (7) calendar days of the posting of the recommendation of intent to award. If vendor does not file a written notice within this time; the vendor will have waived all rights to protest the recommended award. It is the vendor's responsibility to check the posted website.
- 2) Grounds for Protest: Only protests alleging an issue concerning the following subjects shall be considered:
 - a. Errors in computing tabulation or evaluation of bid
 - b. Violation of Rules or Statutes
 - c. Discrepancies with material differences or quality of items
- 3) Protest must be submitted in writing and must include the following information:
 - a. The protester's name address, telephone number, email address, and fax number
 - b. The signature of the protester or it's representative
 - c. The item of protest
 - d. A detailed statement of the factual grounds for the protest, relief requested and include all copies of any relevant documents
- 4) When the Director receives a timely written protest, the Director shall review the record of procurement for legitimacy and procedural correctness.
- 5) Based upon the nature of the protest the Director will convene an appropriate committee that will, within ten (10) calendar days:
 - a. Perform a full review of the filed protest
 - b. Convene a hearing if requested by protesting party
 - c. Protestor may bring a representative to present information to support the factual grounds of the protest

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- d. Protest committee meeting will be informal in nature and not subject to the open meeting act
 - e. Notify the recommended protestor that a protest has been filed
 - f. Make a decision and notify Director of Purchasing of such decision who in turn will notify protester of the decision or any other course of action to be taken within ten (10) calendar days.
- 6) When a protest is filed, the City usually will not make an award until a decision is made. However the City will not delay an award if the City urgently requires the supplies or services to be purchased, or failure to make an award promptly will unduly delay delivery or performance. In those instances, the City will notify the protester and make every effort to resolve the protest before the award.

B. Appeals Process

If the protester is still not satisfied with the response from the Director, vendor will then have five (5) calendar days to appeal to the City Manager. City Manager or her designee will review the appeal and render a decision. Such decision will be considered final with no further appeal process. The final decision of the City Manager or her designee regarding the bid protest will be incorporated in the Request for City Council Action as part of the recommendation for award of the contract.

This directive supersedes all previous correspondence on this subject. Information and/or clarification may be obtained by contacting the Purchasing & Contract Services Department at 210-207-7260.